IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.MC.No. 2465 of 2007()

S.T.NO.2070/06 OF J.F.M.C.ALATHUR

PETITIONER:

SASIKUMAR S/O.PONNUSWAMY, AGED 30 YEARS,
PADINJARE VEEDU, MUDAPPALLOOR
ALATHUR TALUK.

BY ADV. SRI.JOHNSON P.JOHN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,

2. SELVAN V.K. S/O.KRISHNAN, AGED 36 YEARS, VADAKKETHARA, KIZHAKKENCHERRY.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2465 of 2007

Dated this the 2nd day of August 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. Petitioner did receive summons from the court. The counsel had entered appearance before the learned Magistrate. Since the petitioner was employed outside Kerala, he could not appear before the learned Magistrate. The learned Magistrate, reckoning the petitioner as an absconding accused, has issued coercive processes against the petitioner. The petitioner finds such processes chasing him now. The learned counsel for the petitioner submits that the petitioner is innocent. His absence earlier was not wilful but was on account of reasons absolutely beyond his control. The petitioner now wants to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007